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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/829,310	IKEDA ET AL.	
	Examiner	Art Unit	
	JOSHUA MURDOUGH	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 October 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1. This action is responsive to Applicants' amendments received 2 October 2009.

2. This action has been assigned paper number 20100114 for reference purposes only.

3. Claims 1-18 are pending.

4. Claims 1-18 have been examined.

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. §1.75(d)(1), MPEP § 2181 IV. and its discussion of C.F.R. §1.75(d)(1), and MPEP § 608.01(o). Correction of the following is required:

a. "hardware interface" in at least claim 1;

b. "step for generating new music content" in at least claim 1;

c. "step for generating additional information" in at least claim 1;

d. "step for appending the generated additional information" in at least claim 1;

e. "step for searching" in at least claim 8;

f. "step for permitting" in at least claim 8;

g. "step for encrypting" in at least claim 9; and

h. "step for acquiring" in at least claim 18.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim element "a replicated content generation step for generating new music content on the basis of replication of the original music content acquired via said hardware interface," present in claim 1, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for generating new music content" does not appear in the specification. Because "step for generating new music content" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

9. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

10. Claim element "an additional information generation section step for generating additional information including information indicating that the generated new music content is based on replication and replication source information identifying a replicated-from source at which the original music content is located," present in claim 1, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for generating additional information" does not appear in the specification. Because "step for generating additional information" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

11. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

12. Claim element "an appending step for appending the generated additional information to the generated new music content," present in claim 1, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of

ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for appending the generated additional information" does not appear in the specification. Because "step for appending the generated additional information" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

13. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

14. Claim element "a search step for searching the acquired original music content on the basis of the replication source information included in the additional information," present in claim 8, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for searching" does not appear in the specification. Because "step for searching" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

15. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

16. Claim element "a use step for permitting the use of the new music content only when the original music content has been successfully found by said search step," present in claim 8, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for permitting" does not appear in the specification. Because "step for permitting" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

17. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

18. Claim element "an encryption step for encrypting, with medium information specific to said storage medium, music content to be stored in said storage medium and then storing the encrypted music content in said storage medium," present in claims 9 and 15, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for encrypting" does not appear in the specification. Because "step for encrypting" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

19. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

20. Claim element "a search step for searching original music content on the basis of the source information included in the additional information added to the music content acquired via said hardware interface," present in claim 10, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted

above, the phrase "step for searching" does not appear in the specification. Because "step for searching" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

21. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

22. Claim element "a use step for permitting the use of the acquired music content only when the original music content has been successfully found by said search step," present in claims 10 and 18, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for permitting" does not appear in the specification. Because "step for permitting" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

23. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

24. Claim element "a replicated content generation step for generating new music content on the basis of replication of the original music content acquired via said acquisition step," present in claim 16, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for generating new music content" does not appear in the specification. Because "step for generating new music content" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

25. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

26. Claim element "an acquisition step for acquiring music content including additional information added thereto, the additional information including information indicating that the

music content is based on replication and replication source information identifying a replicated-from source at which the music content is located," present in claim 16, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for acquiring" does not appear in the specification. Because "step for acquiring" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

27. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

28. Claim element "a search step for…searching for the original music content on the basis of the replication source information included in the additional information," present in claim 17, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for searching"

does not appear in the specification. Because "step for searching" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

29. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

30. Claim element "an additional information generation step for…generating additional information including information indicating that the generated new music content is based on replication and replication source information identifying a replicated-from source at which the original music content is located," present in claim 17, is a step plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. As noted above, the phrase "step for generating additional information" does not appear in the specification. Because "step for generating additional information" does not appear in the specification, it cannot be clearly shown as corresponding to particular acts.

31. Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a step plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

32. Claim 7 recites the limitation "said replicated content generation section" in line 2. There is insufficient antecedent basis for this limitation in the claim. The phrase "replicated content generation section" was removed from claims 1 and 2 where support was previously located. Because of Applicant's deliberate action to remove "replicated content generation section" from claims 1 and 2, it is the Examiner's position that Applicants intended to remove this instance of the phrase as well. Both previous occurrences of "replicated content generation section" were amended to be replicated content generation steps. Therefore, it is the Examiner's position that Applicants intended to change "section" to "step" However, one of ordinary skill in the art reading the claim in a published or clean format would not see this amendment and therefore might not reach this conclusion.

33. Claim 14 recites the limitation "said search section." The phrase is indefinite because it is unclear if Applicants are referring to a method step or a section.

34. The Examiner finds that because particular claims are rejected as being indefinite under 35 U.S.C. §112 2nd paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied as much as practically possible.

35. Claims 1 and 16 (currently amended):

i. A music-content ("audio file," [0050]) using apparatus ("Capusle Administrator") comprising:

j. a hardware interface (network connection depicted by the dotted arrow in Figure 7) that acquires original music content ("Merchant provides…media file to Capsule Administrator," Step 18, Figure 8);

k. a programmed processor ("The system includes a computer with a processor." [0028]) that is programmed to perform:

i. a replicated content ("encapsulated media file," Step 20, Figure 8) generation step ("capsule data is fused to media file" creating an "encapsulated media file." Steps 19-20, Figure 8) for generating new music content on the basis of replication of the original music content acquired via said hardware interface (Id.); and

ii. an additional information ("capsule information," 2, Figure 6) generation step for generating additional information including information indicating that the generated new music content is based on replication and replication source information identifying a replicated-from source at which the original music content is located ("The capsule includes data extracted from a source file about the subject and reference information directing to the source file." [0033]); and

iii. an appending step for appending (Capsule information is placed in the header **10** of the original content **9**, Figure 6) the generated additional information

2 to the generated new music content ("encapsulated media file" Step 20, Figure 8).

36. Miller does not expressly show that the additional information is generated by the Capsule Administrator.

37. However, in order to be included in the capsule, the additional information would have to be generated by either the merchant that provided the original media or the Capsule Administrator. Because this information is used by Miller in constructing the capsule, there is a need for the information. Because there are only two parties involved in the encapsulation of the media, one of the two parties must generate the additional information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Miller to have the Capsule Administrator generate the source information, because one of ordinary skill in the art would be able to identify where the media file is acquired from when using the teachings of Miller, because Miller discloses in another embodiment identifying all hosts by IP addresses [0012].

38. Claim 2 (currently amended):

1. A music-content using apparatus as claimed in claim 1 wherein said replicated content generation step replicates the original music content and generates, as the new music content, the replicated music content that comprises a replication of at least some of substance data of the original music content (the encapsulated media file contains the data of the source media file and the capsule information, Figure 6).

39. Claim 3 (original):

m. A music-content using apparatus as claimed in claim 2 wherein the new music content comprises a replication of all of the substance data of the original music content (the encapsulated media file contains the data of the source media file and the capsule information, Figure 6).

40. Claim 4 (currently amended):

n. A music-content using apparatus as claimed in claim 1 wherein said replicated content generation step replicates the original music content and performs editing to change at least some of substance data of the replicated music content (Changes to the media file are provided to the Capsule Administrator, Step 26, Figure 9 & the changed data is fused into the old capsule, Step 27, Figure 9), to thereby generate, as the new music content (Id.), the replicated music content that includes at least the substance data changed by the editing (Figure 9).

41. Claim 5 (original):

o. A music-content using apparatus as claimed in claim 4 wherein the new music content includes, as its substance data, only the substance data changed by the editing (replacing the capsule data instead of modifying it, [0157]).

42. Claim 7 (currently amended):

p. A music-content using apparatus as claimed in claim 1 wherein the new music content generated by said replicated content generation section includes a management data region **10** and substance data region **9**, and the additional information generated by said additional information generation step **2** is stored in the management data region (Figure 6).

43. Claims 8 and 17 (currently amended):

q. A music-content using apparatus as claimed in claim 1, wherein the programmed processor is further programmed to perform which further comprises:

r. a search step ("executing queries to search for capsules," [0032]) for searching the acquired original music content on the basis of the replication source information included in the additional information (keyword and tag data, [0032]); and

s. a use step (display of encapsulated data, [0160]) for permitting the use of the new music content only when the original music content has been successfully found by said search step ("retrieve and display the capsule information," [0160], in order to be retrieved, the content must be found).

44. Claim 9 (currently amended):

t. A music-content using apparatus as claimed in claim 1 which further comprises:

u. a storage medium that stores music content (a storage medium is inherent to Capsule Main Database Step 90, Figure 9);

v. wherein said programmed processor is further programmed to perform an encryption step ("The capsule information can also be encrypted on the server." [0032]) for encrypting, with medium information specific to said storage medium (filenames are specific to a file on a storage medium, [0072]) music content to be stored in said storage medium and then storing the encrypted music content in said storage medium ("Add to Capsule Main Database," Step 90, Figure 9).

Claims 10 and 18 (currently amended):

w. A music-content ("audio file," [0050]) using apparatus ("Capusle Administrator") comprising:

x. a hardware interface (network connection depicted by the dotted arrow in Figure 7) that acquires music content ("media file") including additional information ("capsule data") ("Merchant provides capsule data and media file to Capsule Administrator, Step 18, Figure 8), the additional information including information indicating that the music content is based on replication and replication source information identifying a replicated-from source at which the music content is located ("The capsule includes data extracted from a source file about the subject and reference information directing to the source file." [0033]);

y. a programmed processor ("The system includes a computer with a processor." [0028]) that is programmed to perform:

iv. a search step ("executing queries to search for capsules," [0032]) for searching original music content on the basis of the source information included

in the additional information added to the music content acquired via said hardware interface (keyword and tag data, [0032]); and

v. a use step (display of encapsulated data, [0160]) for permitting the use of the acquired music content only when the original music content has been successfully found by said search step ("retrieve and display the capsule information," [0160], in order to be retrieved, the content must be found).

45. Miller does not expressly show that the capsule information is added to the media file before being sent to the Capsule Administrator.

46. Miller does show the capsule information being added to the media file by the Capsule Administrator (Capsule information is placed in the header **10** of the original content **9**, Figure 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Miller to have the merchant combine the capsule information and the media file before sending them to the Capsule Administrator because both elements are already being sent to the Capsule Administrator and processing demands would be reduced on the Capsule Administrator. Because the Capsule Administrator serves more than one merchant, reducing the demands on it would benefit all of the merchants.

47. Claim 11 (currently amended):

z. A music-content using apparatus as claimed in claim 10 wherein the music content acquired via said hardware interface includes a management data region **10** and

substance data region **9**, and the additional information **2** is stored in the management data region (Figure 6).

48. Claim 12 (previously presented):

aa. A music-content using apparatus as claimed in claim 11 wherein, in the substance data region, there are included substance data of the acquired music content that comprise a replication of at least some of substance data of the original music content (the encapsulated media file contains the data of the source media file and the capsule information, Figure 6).

49. Claim 13 (previously presented):

bb. A music-content using apparatus as claimed in claim 11 wherein, in the substance data region, there are included substance data of the acquired music content obtained by changing at least some of substance data of the original music content (Changes to the media file are provided to the Capsule Administrator, Step 26, Figure 9 & the changed data is fused into the old capsule, Step 27, Figure 9).

50. Claim 15 (currently amended):

cc. A music-content using apparatus as claimed in claim 10 which further comprises:

dd. a storage medium that stores music content (a storage medium is inherent to Capsule Main Database Step 90, Figure 9); and

wherein said programmed processor is further programmed to perform an encryption step for encrypting ("The capsule information can also be encrypted on the server." [0032]), with medium information specific to said storage medium (filenames are specific to a file on a storage medium, [0072]), music content to be stored in said storage medium and then storing the encrypted music content in said storage medium ("Add to Capsule Main Database," Step 90, Figure 9).

51. Claims 6 and 14, as understood by the Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller as applied to claims 4 and 13 above, and further in view of Farber (US 2002/0052884).

52. Miller shows as set forth above in regards to claims 4 and 13 but does not expressly show:

ee. when use of the acquired music content is being permitted and if the at least some of substance data of the original music content are not included in the substance data region of the acquired music content, said use step acquires the at least some of substance data from the original music content found by said search section.

53. However, Farber shows:

ff. when use of the acquired music content is being permitted and if the at least some of substance data of the original music content are not included in the substance data region of the acquired music content ("realize the True File," [0501]), said use step acquires the at least some of substance data from the original music content found by said search section (found by "True Name," [0510]).

54. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the teachings of Miller to have capsules contain only the changed data and rely on the previous capsule to contain the unchanged data. This would allow for the recording of the version history and licensing of a particular version of content.

Claim Interpretation

55. The phrase "image file" as used in Miller, is understood to correspond to an audio file. See Miller [0051].

56. Applicants are reminded that optional or conditional elements (*e.g.* claim 14 which recites "***when*** use of the acquired music content is being permitted and ***if*** the at least some of substance data of the original music content are not included in the substance data region of the acquired music content" [emphasis added]) do not narrow the claims because they can always be omitted. See *e.g.* MPEP §2106 II *C.*: "Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]"; and *In re Johnston*, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir. 2006) ("As a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted.").

57. The Examiner hereby adopts the following interpretations under the broadest reasonable interpretation standard. In accordance with *In re Morris,* 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his

interpretation of the claims.[1] Additionally, these interpretations are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

gg. ***If:*** "1 a : in the event that" Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield, M.A., 1986.

hh. ***When***: "2 : in the event that: IF." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Response to Arguments

58. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

59. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

60. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period

[1] While most definition(s) are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

61. Applicants are respectfully reminded that any suggestions or examples of claim language provided by the Examiner are just that—suggestions or examples—and do not constitute a formal requirement mandated by the Examiner. To be especially clear, any suggestion or example provided in this Office Action (or in any future office action) does *not* constitute a formal requirement mandated by the Examiner.

ii. Should Applicants decide to amendment the claims, Applicants are also reminded that—like always—no new matter is allowed. The Examiner therefore leaves it up to Applicants to choose the precise claim language of the amendment in order to ensure that the amended language complies with 35 U.S.C. § 112 1st paragraph.

jj. Independent of the requirements under 35 U.S.C. § 112 1st paragraph, Applicants are also respectfully reminded that when amending a particular claim, all claim terms must have clear support or antecedent basis in the specification. See 37 C.F.R. § 1.75(d)(1) and MPEP § 608.01(o). Should Applicants amend the claims such that the claim language no longer has clear support or antecedent basis in the specification, an objection to the specification may result. Therefore, in these rare situations where the amended claim language does *not* have clear support or antecedent basis in the specification and to prevent a subsequent 'Objection to the Specification' in the next office action, Applicants are encouraged to either (1) re-evaluate the amendment and

change the claim language so the claims *do* have clear support or antecedent basis or, (2) amend the specification to ensure that the claim language does have clear support or antecedent basis. See again MPEP § 608.01(o) (¶3). Should Applicants choose to amend the specification, Applicants are reminded that—like always—no new matter in the specification is allowed. See 35 U.S.C. § 132(a). If Applicants have any questions on this matter, Applicants are encouraged to contact the Examiner via the telephone number listed below.

62. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

63. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

64. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621